THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

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WRIT APPEAL No.135 OF 2005

JUDGMENT: (Per Hon'ble Sri Justice B. Prakash Rao)

Heard the learned standing counsel for the appellants and

Sri G. Ravi Mohan, the learned counsel appearing for the contesting respondent herein and at their consent, the main appeal itself is taken up for disposal.

This appeal is at the instance of the Management/Corporation as against the orders passed in W.P.No.18685 of 2004 filed by the respondent-employee, a Conductor, wherein he sought a writ of Mandamus as against non payment of salary to him by computing notional increments from the date of termination till the date of reinstatement as illegal.

The learned single Judge, by going into merits of the case, allowed the writ petition directing the respondents to fix up the pay of the petitioner from the date of his reinstatement by working out the notional increments for the period from the date of termination till the date of reinstatement.

During the course of arguments, the learned standing counsel appearing for the appellants referred to a decision of the Supreme Court in ***Andhra Pradesh State Road Transport Corporation V. Abdul Kareem*****,** wherein the Supreme Court, in similar set of circumstances, held that once an employee, who is guilty of misconduct and remained absent during the period he was in service, he is not

entitled to claim the benefit of notional increment.

The learned counsel appearing for the respondent submitted that there is no dispute in regard to the above proposition. Following the same, the Writ Appeal is allowed and the directions given by the learned single Judge in regard to the working out of the notional increments for the said period is set aside. No costs.

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B. PRAKASH RAO, J

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C.Y. SOMAYAJULU, J

19th December 2005.

Chvn.